

REMARKS

At the outset, Applicant would like to thank the Examiner for his time, courtesy, and assistance during the informal telephonic interview with the undersigned on July 28, 2005. Applicant has amended the present application and herewith submits a declaration of Dr. Leroy J. Kloepfner under 37 C.F.R. §1.132, to place the application, as a whole, into *prima facie* condition for allowance at this time. Applicant submits that substantial care has been taken to avoid the introduction of any new subject matter into the application as a result of the foregoing amendment and submission.

Applicant acknowledges with gratitude that claims 7, 12, 15, 23, 28, 29, 31, 39, 44, 47, 60, 65, and 68 have merely been objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 1-6, 8-11, 13, 14, 16-22, 24-27, 29, 30, 32-38, 40-43, 45, 46, 48-59, 61-64, 66, 67, and 69-74 have been rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 5,928,572 (hereinafter the '572 patent) issued to Tonar et al., and claims 1-6, 8-11, 14, 16-22, 24-27, 30, 32-38, 40-43, 46, 48-59, 61-64, 67, and 69-74 have been rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 5,679,283 (hereinafter the '283 patent) issued to Tonar et al. In particular, the Examiner contends that even though the '572 and '283 patents do not expressly teach a self-healing cross-linked polymer gel, the '572 and '283 patents teach polymers that: (1) are free-standing; (2) do not weep; (3) do not succumb to hydrostatic pressure; and (4) avoid haziness or cloudiness. Thus, the Examiner concludes that the polymers of the '572 and '283 patents are purportedly, inherently self-healing. Applicant respectfully traverses the Examiner's rejections.

In accordance with 37 C.F.R. §1.132, Applicant respectfully submits a Declaration of Dr. Leroy J. Kloeppner which, as was discussed with and agreed to by the Examiner during the above-identified interview, unequivocally verifies that the polymers disclosed in Examples 6 and 15 of the '283 and '572 patents, respectively, do not have the self-healing properties – as disclosed and claimed in the present invention. In particular, Example 6 of the '572 and '283 patents as well as Example 15 of the '572 patent, which would likely have the best potential of the Examples in the '572 and '283 patents to exhibit self-healing properties based upon the relative concentration of the cohesive functional group, clearly do not exhibit the self-healing properties as disclosed and claimed in the present invention. As such, Applicant respectfully submits that the present rejections of the above-identified claims under 35 U.S.C. §102(b) are improper. Accordingly, Applicant respectfully submits that the bases for rejection of the above-identified claims have been overcome and reconsideration and withdrawal of the 35 U.S.C. §102(b) rejections based upon the '572 and '283 patents are respectfully requested.

As was discussed with and agreed to by the Examiner during the above-identified interview, Applicant further submits that any subsequent 35 U.S.C. §103 rejection based upon the above-identified references, either alone or in combination with the prior art of record, would be improper inasmuch as there is no fair teaching or suggestion to modify the structures of the above-identified references to, in turn, arrive at the superior and unexpected results of Applicant's invention as disclosed and claimed.

In accordance with the Examiner's recommendation, Application has amended independent claim 17, by inserting the term "self-healing" before "means", so as to read "self-healing means" in an attempt to more precisely define the same. Applicant respectfully submits that inasmuch as the above-identified amendment was carried out for non-substantive, clarification purposes, such an amended is void of any and all *Festo* implications.

In light of the foregoing, Applicant respectfully submits that the application is in *prima facie* condition for allowance at the present time. Accordingly, Applicant respectfully requests reconsideration of the present application and passage toward issuance thereof.

If any other charges or fees must be paid or credited in connection with this communication, they may be paid out of our Deposit Account No. 50-2131.

Should the Examiner having any questions regarding the present application, a telephone call to the undersigned is respectfully solicited.

Respectfully submitted,

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Dated: 8/11/05

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